

BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION
450 N Street, Room 121
Sacramento, California

REPORTER'S TRANSCRIPT
AUGUST 29, 2006

ITEM J
CHIEF COUNSEL MATTERS
RULEMAKING

Reported by: Beverly D. Toms
No. CSR 1662

P R E S E N T

For the Board
of Equalization:

John Chiang
Chairman

Bill Leonard
Member

Betty T. Yee
Acting Member

Marcy Jo Mandel
Appearing for Steve Westly,
State Controller (per
Government Code
Section 7.9)

Gary Evans, Acting
Chief, Board Proceedings
Division

Board of Equalization
Staff:

Ian Foster

Bradley Heller

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1
2 Sacramento, California

3 August 29, 2006

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5 MR. EVANS: Item J, Chief Counsel Matters.
6 This is a status report on the new Rules of Practice,
7 Chapter 4, Appeals from Actions of the Franchise Tax
8 Board.

9 Ms. Cazadd will make the presentation.

10 MR. CHIANG: Okay, very good.

11 Mr. Foster will make the presentation.

12 MR. CHIANG: Good morning, gentlemen.

13 MR. FOSTER: Good morning, Mr. Chair and
14 Members. Ian Foster with the Appeals Division.

15 Again, this is just a status report to show you
16 where we are on Chapter 4. We've made three particular
17 changes since the last meeting where we discussed this,
18 and two of them relate to removing provisions that would
19 have denied oral hearings. We've removed the provision
20 that would have denied oral hearings when it's a repeat
21 case involving the same facts and issues. We've removed
22 the streamline briefing process which would have denied
23 oral hearings, as well.

24 And the other major change is that we have
25 rewritten much of the language to make it read easier in
26 more plain English format.

27 MR. CHIANG: Very good.

28 MR. FOSTER: Any questions?

1 MR. CHIANG: Questions or comments?

2 MR. LEONARD: I have asked for a further change
3 that you and I corresponded about.

4 MR. FOSTER: Yes, sir.

5 MR. LEONARD: And I really want to commend the
6 staff for the -- their work on this. I had a concern,
7 Members, regarding the -- the times hopefully that will
8 be more -- more useful when we ask for formal opinions
9 of what the taxpayer's situation is while we wait for a
10 formal opinion to be drafted and come back before us.
11 Do they know how we voted and can they choose to
12 petition for rehearing, pay the tax, stop the interest
13 from accruing. And apparently there is a process that
14 already has been developed for that, that I'd like
15 included in Part 4 so taxpayers know.

16 It's not exactly a letter decision, but it
17 reflects our actual vote and our sub -- secondary motion
18 to ask staff to develop a formal opinion that we then
19 can choose to adopt at a later hearing. I think that
20 really helps the process, puts the taxpayer in a
21 position that they have knowledge about the situation
22 and can make their choices about the tax obligation.

23 MR. FOSTER: That's correct, that is our
24 current practice and it's easy enough to incorporate
25 into the rules.

26 MR. LEONARD: Excellent. Thank you.

27 MS. MANDEL: And I gave you a bunch of comments
28 over the phone.

1 MR. FOSTER: Yes, Ms. Mandel.

2 MS. MANDEL: Editing. It's a massive project
3 and every eye that looks at it sees another missing word
4 or something.

5 MR. FOSTER: Right.

6 MR. LEONARD: Yes.

7 MR. FOSTER: And you had a number of good
8 suggestions that we'll be working on, as well.

9 MR. CHIANG: Could we have a time frame for a
10 response to Marcy and Bill's issues?

11 MR. FOSTER: I can get all of that in there
12 this week and -- I mean, certainly all that language
13 will be in before the next month's Board meeting.

14 MR. LEONARD: And what they're also doing,
15 which I think is great, is the web site is -- is showing
16 the clean version and additions so that practitioners
17 and others that want to follow what -- what changes are
18 being made can easily follow comment of the Board
19 Members about that for our adoption vote as it comes up.

20 MR. CHIANG: When you make those -- complete
21 those changes, will you communicate back to Marcy and
22 Bill so that they can review it, make sure that it's
23 accurate -- accurately reflected.

24 MR. FOSTER: I will be happy to.

25 MR. LEONARD: I think you know that Marcy and I
26 are not going to let him -- I got him on his day off
27 here, so you can't get away.

28 MR. FOSTER: There's plenty of communication

1 with those offices, so, yeah. Not a problem.

2 MR. CHIANG: I just wanted to make sure because
3 I didn't want to hear it up here.

4 MR. FOSTER: Very well.

5 MR. CHIANG: Very good.

6 MR. HELLER: Really briefly, also, staff is
7 preparing to bring Chapter 5 to the Board Members
8 for -- for their approval along with all the other
9 chapters for approval to publish at the September 26th
10 Board meeting and is currently in the process of
11 preparing an overall analysis of all the important
12 issues in the overall project, including detailed
13 analysis of some of the issues raised by the provisions
14 of Chapter 5. And we are hoping to have a draft of our
15 analysis prepared in the next week or so, and hopefully
16 releasing that a week later after that.

17 MS. MANDEL: Can --

18 MR. HELLER: And -- what --

19 MS. MANDEL: Can -- I'm sorry. I'm in an
20 interrupting mode, I'm sorry.

21 MR. HELLER: Okay.

22 MS. MANDEL: When can we see the most current
23 drafts so that I can read them so carefully with my
24 little pencil the way I just did for whatever one we're
25 talking about, Chapter 4?

26 MR. HELLER: My -- we're -- I believe we're
27 shooting for having the analysis done by sometime next
28 week and a draft done by the end of this week, and then

1 the -- we can have drafts of the rules available
2 probably I would say early next week when we have the
3 memo all ready so that they would accompany each other.

4 MS. MANDEL: Yeah, I'm just thinking in time
5 for the public agenda notice because that's what
6 happened this -- this time. i managed to get it on the
7 day that the public agenda notice went out.

8 MR. HELLER: Well, we'll make sure that they --
9 that at least drafts of whatever the current language is
10 as of next week go out next week along with the memo so
11 that there is --

12 MS. MANDEL: Okay.

13 MR. HELLER: -- a contemporaneous reference.

14 MS. MANDEL: Okay.

15 MR. CHIANG: Okay. Thank you very much.

16 Next item.

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REPORTER'S CERTIFICATE

State of California)
) ss
County of Sacramento)

I, BEVERLY D. TOMS, Hearing Reporter for the California State Board of Equalization certify that on August 29, 2006 I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding 7 pages constitute a complete and accurate transcription of the shorthand writing.

Dated: September 8, 2006.

BEVERLY D. TOMS
Hearing Reporter